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SUBJ: ECONOMIC RIGHTS AND DUTIES IN DRAFT CONSTITUTION

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SUMMARY:

CHAPTER I OF TITLE III ON ECONOMIC RIGHTS AND DUTIES APPROVED

BY CONSTITUENT ASSEMBLY IS HEAVY ON RIGHTS AND SHORT ON DUTIES.

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RIGHTS OF WORKERS, WORKERS' COMMITTEES, LABOR UNIONS, AND

PRIVATE ENTERPRISE ARE SPECIFIED, WITH PARTICULAR EMPHASIS BEING GIVEN TO RIGHTS OF WORKERS AND THEIR ORGANIZATIONS. PRINCIPAL POINTS INCLUDE PROHIBITION OF LOCK-OUTS OR FIRINGS WITHOUT JUST CAUSE, AND AUTHORIZATION FOR WORKERS' COMMITTEES TO CONTROL MANAGEMENT AND TO PARTICIPATE IN PREPARING LABOR LEGISLATION AND SECTORAL PLANS. STIMULATION OF "SOCIAL" AND COOPERATIVE EXPERIMENTS IS STRESSED. FREEDOM OF PRIVATE INITIATIVE AND RIGHT TO PRIVATE PROPERTY ARE GUARANTEED WITHIN STRICT LIMITATIONS; RIGHT TO COMPENSATION FOR, AND RESTRICTIONS ON, CONFISCATION OF GOODS ARE SPECIFIED. CERTAIN ASPECTS OF CHAPTER ARE UNLIKELY TO ENCOURAGE PRIVATE INVESTMENT. END SUMMARY.

1. APPROVED VERSION OF CHAPTER I, TITLE III OF CONSTITUTION (SEE REFTEL A) STATES THAT ECONOMIC, SOCIAL, AND CULTURAL RIGHTS ARE TO BE OBTAINED BY BROADENING SOCIAL OWNERSHIP OF THE MEANS OF PRODUCTION AND THROUGH PLANNING. ECONOMIC RIGHTS AS DISCUSSED IN CHAPTER CAN BE DIVIDED CONCEPTUALLY INTO RIGHTS OF WORKERS, WORKERS' COMMITTEES, LABOR UNIONS, AND PRIVATE ENTERPRISE. PRINCIPAL POINTS:

2. WORKERS' RIGHTS. A. ALL ABLE-BODIED CITIZENS HAVE RIGHT TO A JOB AS WELL AS DUTY TO WORK. EQUAL OPPORTUNITY AND FREEDOM OF JOB CHOICE GUARANTEED, EXCEPT IN CASE OF LEGAL RESTRICTIONS "IMPOSED BY THE COLLECTIVE INTEREST" OR PERSONAL INCAPACITY. B. NO WORKER CAN BE FIRED WITHOUT JUST CAUSE, AND ANY FIRING MUST BE SANCTIONED BY REPRESENTATIVE WORKER ORGANIZATION. RIGHT TO STRIKE IS GUARANTEED, AND LOCK-OUTS ARE PROHIBITED. WORKERS HAVE RIGHT TO CREATE COMMITTEES FOR DEFENSE OF THEIR INTERESTS AND FOR "DEMOCRATIC INTERVENTION IN THE LIFE OF THE FIRM" (SEE PARA 3 BELOW). THEY ALSO HAVE RIGHT TO "PARTICIPATE" IN PRODUCTION REORGANIZATION, TO FORM COOPERATIVES, ETC. C. WORKERS HAVE RIGHT TO REMUNERATION CONSONANT WITH "QUANTITY AND QUALITY" OF THEIR WORK, BASED ON PRINCIPLE OF "EQUAL PAY FOR EQUAL WORK." ALL ARE GUARANTEED RIGHT TO HUMANE AND DIGNIFIED WORKING CONDITIONS, INCLUDING ADEQUATE LEISURE TIME. D. STATE IS TO ASSURE RIGHTS BY IMPLEMENTING FULL EMPLOYMENT POLICIES, SETTING MINIMUM AND MAXIMUM SALARIES, ESTABLISHING A NATIONAL WORK WEEK, DEVELOPING NETWORK OF HOLIDAY REST CENTERS, AND GIVING SPECIAL PROTECTION TO PREGNANT WOMEN, LIMITED OFFICIAL USE

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MINORS, WORKERS IN HAZARDOUS JOBS, ETC.

3. RIGHTS OF WORKERS' COMMITTEES. WORKERS' COMMITTEES GIVEN RIGHT TO "EXERCISE THE CONTROL OF MANAGEMENT" IN FIRMS, AND TO RECEIVE ALL INFORMATION CONSIDERED NECESSARY. COMMITTEES ARE TO BE ELECTED BY DIRECT AND SECRET BALLOT, AND MEMBERS GIVEN SAME LEGAL PROTECTION ENJOYED BY UNION DELEGATES. COMMITTEES HAVE RIGHT TO PARTICIPATE IN PREPARATION OF LABOR LEGISLATION

AND SECTORAL PLANS. STATE WILL STIMULATE AND SUPPORT "VIABLE" EXPERIMENTS IN SELF-MANAGEMENT AND COOPERATIVISM.

4. RIGHTS OF LABOR UNIONS. ARTICLE 11 (UNION LIBERTY) WAS OUTLINED IN PARA. 1 AND 2 OF REFTTEL (B). ARTICLE 12 AFFIRMS RIGHT OF COLLECTIVE BARGAINING, AND STATES THAT FORTHCOMING LAWS WILL REGULATE COLLECTIVE BARGAINING AS WELL AS UNION RIGHTS TO HELP DETERMINE CIVIL SERVICE WORK REGULATIONS.

5. PRIVATE ENTERPRISE. A. ARTICLE 13 AFFIRMS FREEDOM OF PRIVATE INITIATIVE, WITHIN LIMITS SET BY CONSTITUTION AND LAW-- "WHICH SHOULD SAFEGUARD THE INTERESTS OF SMALL AND MEDIUM BUSINESS." IT ALSO STATES THAT FOREIGN INVESTMENT WILL BE REGULATED BY LAW, IN ORDER TO DEFEND NATIONAL AND WORKER INTERESTS. THIS ARTICLE HAS BEEN RETURNED TO COMMITTEE FOR RECONSIDERATION AND POSSIBLE INCLUSION IN TITLE 4 - "ECONOMIC ORGANIZATION."

B. FINAL ARTICLE GUARANTEES, WITHIN CONSTITUTIONAL OR LEGAL LIMITS, RIGHT TO PRIVATE PROPERTY AND ITS TRANSMISSION, AS WELL AS JUST COMPENSATION FOR EXPROPRIATION. GOODS CAN ONLY BE CONFISCATED AS PENAL SANCTION BY COURTS, AND ONLY THOSE GOODS ACQUIRED ILLEGALLY ARE SUBJECT TO CONFISCATION.

6. COMMENT: A. SECTION ON WORKER RIGHTS APPEARS TO GRANT WORKERS AMPLE RIGHTS, WHICH ON THE WHOLE ARE CONSONANT WITH THOSE GUARANTEED IN OTHER WESTERN EUROPEAN COUNTRIES. HOWEVER, BAN ON FIRINGS WITHOUT JUST CAUSE APPEARS TO EXCLUDE COLLECTIVE DISMISSALS--WHICH CURRENTLY ARE LEGAL BUT FOR ALL EFFECTS AND PURPOSES VIRTUALLY IMPOSSIBLE TO CARRY OUT. IT IS EVEN MORE RESTRICTIVE THAN ALREADY TOUGH "INDIVIDUAL CONTRACT" LAW, WHOSE REVOCATION MORE MILITANT LEFTIST AND WORKER GROUPS HAVE BEEN DEMANDING. (LISBON 5042 NOTAL, 5216.)

B. CLAUSE ON WORKER CONTROL OF PRODUCTION APPEARS MUCH LIMITED OFFICIAL USE

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MORE SPECIFIC THAN VAGUE STATEMENTS COMMONLY MADE UNTIL NOW. THIS CLAUSE, DEPENDING OF COURSE ON ITS ACTUAL IMPLEMENTATION WOULD APPEAR TO LIMIT, TO A MUCH GREATER DEGREE THAN IN OTHER WESTERN EUROPEAN COUNTRIES, MANAGEMENT'S EFFECTIVE CONTROL OVER ITS INVESTMENT. BOTH FOREIGN AND DOMESTIC PRIVATE INVESTORS ARE HARDLY LIKELY TO BE ENCOURAGED.

C. SECTION ON CONFISCATION OF GOODS APPEARS TO EXCLUDE ACTIONS SUCH AS GONCALVES GOVERNMENT'S CONFISCATION OF PINTO DE MAGALHAES FAMILY PROPERTIES (LISBON 3117 NOTAL). PROVISION FOR JUST COMPENSATION SHOULD BE OF SOME ENCOURAGEMENT TO REMAINING PROPERTY OWNERS.

D. APPROVED CHAPTER IS LONG ON RIGHTS AND SHORT ON DUTIES FOR WORKERS AND THEIR ORGANIZATIONS; THE ONLY SPECIFIED DUTY IS THE DUTY TO WORK. ON THE OTHER HAND, THE STATE HAS LONG LIST OF NEW DUTIES WHICH IT IS EXPECTED TO PERFORM.

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